



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No. 8012-99  
26 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 22 August 1950 for four years at age 18. The record reflects that you were advanced to SA (E-2) and served for 14 months without incident. However, during the four month period from October 1951 to January 1952 you were convicted by two summary courts-martial of two brief periods of unauthorized absence (UA) totalling about eight days, absence from your unit to avoid maneuvers, and missing movement. Also during this period, you were notified that the Family Allowance Unit in the Bureau of Naval Personnel had denied your application for basic allowance for quarters (BAQ) for your brother and sister. The Bureau stated that they were not eligible relatives for the purpose of receiving BAQ.

During the nine month period from March to December 1952 you received two nonjudicial punishments (NJP) for a two day period of UA and possession of firearms in your locker. During this period you were authorized the Korean Service Medal for participation in Korean theatre operations while on board the USS VAN VALKENBURGH.

You were reported UA again on 28 December 1952 and remained absent until you were apprehended by civil authorities on 18 January 1955. On 18 March 1955 you were convicted by general court-martial of desertion from 28 December 1952 to 18 January 1955. You were sentenced to confinement at hard labor for 30 months, total forfeitures, reduction in rate to SR (E-1), and a bad conduct discharge. On 16 June 1955, the Navy Board of Review approved only so much of the sentence that provided for confinement at hard labor for two years, forfeitures of all pay and allowances for that period, the reduction in rate, and the bad conduct discharge were approved and affirmed.

While in confinement, you reported to disciplinary command officials that you deserted because the Navy refused to grant an allotment for your half-brother and half-sister, which you claimed had been promised by your recruiter, and the command's disapproval of your transfer requests. Although you tried to impress officials of your grave concern over your family's financial condition, you stated that you did not go home, but traveled around the country, admitted that you had sent no money home during your prolonged absence, and bragged that you had made more money "living off the land" than you would have by holding a job. When asked to explain what you meant by that, you stated that you were letting various women support you. On 25 October 1955 you requested remission of the discharge adjudged and requested permission to reenlist in order to earn an honorable discharge. On 25 October 1955, the clemency board reduced the period of confinement to 20 months but denied your request for reenlistment. You received the bad conduct discharge on 26 June 1956.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, Korean service, good post-service conduct, and the fact that it has been 44 years since you were discharged. The Board noted your contentions to the effect that you went UA because you could not get any assistance concerning an allotment to help support your mother, half-brother and half-sister. You claim that an allotment had been established but was later determined to be invalid, requiring you to pay back the government's contribution. As a result, you were only receiving \$10 in pay for health and comfort.

The Board concluded that the foregoing factors, contentions and claims were insufficient to warrant recharacterization of your discharge given your record of two NJPs, two summary court-martial convictions, and a general court-martial conviction of a period of UA that lasted more than two years. Your total lost time due to UA and military confinement was 1122 days. Your contention that an allotment had been established is neither

supported by the evidence of record nor by any evidence submitted in support of your application. It appeared to the Board that if you had a genuine concern for your family you would have gone home during the period of UA to help support them, rather than traveling around the country. The fact that a BAQ allotment or transfer requests were not approved did not justify your prolonged period of UA of more than two years. Trial by general court-martial was warranted by the gravity of the offense. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes your service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director